

**DEPARTMENT OF THE ARMY  
SOUTHWESTERN DIVISION CORPS OF ENGINEERS  
1114 COMMERCE STREET  
DALLAS, TEXAS 75242-0216**

**Regulation  
SWDR 690-1-1**

**17 March 1997**

**HUMAN RESOURCES  
Fixing Rates of Pay**

1. **PURPOSE.** This regulation implements Department of the Army regulations, and Office of Personnel Management procedures, which govern fixing rates of pay and establishes pay-fixing guidance for the U. S. Army, Corps of Engineers, Southwestern Division, and its serviced activities.

2. **APPLICABILITY.** The provisions of this regulation apply to all employees in the Southwestern Division and serviced activities. Where this plan is silent regarding certain aspects of pay setting, Title 5 of the Code of Federal Regulations will prevail.

3. **REFERENCES.** U. S. Code of Federal Regulations, Parts 531, 532, 536

4. **POLICY.** Pay of employees will be set according to the guidance outlined in this memorandum. In setting rates of pay there will be no discrimination against any person because of race, color, sex, age, religion, national origin, marital status, or disability.

5. **RESPONSIBILITIES.**

a. The Director, Human Resources is responsible for ensuring that pay is set in a consistent and equitable manner in the best interest of both the employee and the Government.

b. Supervisors are not to commit a pay rate when interviewing a prospective employee. Many factors are involved in setting pay, and often the final determination cannot be made until the employee's complete personnel file is reviewed by the appropriate human resources specialist.

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This Regulation hereby rescinds SWFOM 690-1-27, 5 Jan 90; SWTOM 690-1-531, 30 Jun 83; and, SWLR 690-1-552.

**6. EXPLANATION OF TERMS.**

a. Existing Rate of Basic Pay - General Schedule (GS). The rate received immediately before effective date of a transfer, reassignment, promotion, change to lower grade, or within-grade increase.

b. Existing Scheduled Rate of Pay - Federal Wage System (WG). The scheduled rate of pay received immediately before the effective date of a transfer, reassignment, promotion, change to lower grade, within-grade increase, or revision of a wage schedule.

c. Rate of Basic Pay.

(1). General Schedule. The rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind.

(2). Wage Grade. The scheduled rate of pay plus any night shift or environmental differential.

d. Highest Previous Rate of Pay (HPR) .

(1). The rate (basic for GS or scheduled rate for WG) previously paid to a person while employed in a position in a branch of the Federal Government (Executive, Legislative, or Judicial), a mixed ownership/corporation, the Government of the District of Columbia, US Postal Service or the Postal Rate Commission. The highest previous rate must be based on a regular tour of duty at any rate of basic pay received by an individual while serving under an appointment not limited to 90 days or less, or for a continuous period of not less than 90 days under one or more appointments without a break in service. When the highest previous rate falls between two step rates of the proposed grade, the higher of the two rates will be the highest rate.

(2). The highest previous rate may not be based on the following:

- (a). A rate received as an expert or consultant.
- (b). A rate received in a position to which the employee was temporarily promoted for less than 1 year; except upon permanent placement in a position at the same or higher grade.
- (c). A rate received in a position from which the employee was reassigned or reduced in grade for failure to satisfactorily complete a probationary period as a supervisor or manager.
- (d). A rate received under a void appointment or a rate otherwise contrary to applicable law or regulation.
- (e). A special rate established under 5 U. S. C., part 530, part 532, or other legal authority; unless, in a reassignment to another position in the same agency.

(3). The special rate of pay is the employee's current rate of basic pay; and an agency official specifically designated to make such determinations finds that the need for the services of the employee, and his/her contribution to the program of the agency, will be greater in the position to which he/she is being reassigned. Such determinations shall be made on a case-by-case basis, and in each case the agency shall make a written record of its positive determination to use the special rate as an employee's highest previous rate.

(4). In the case of an employee who has received or is receiving a special rate is placed in a position in which a special rate does not apply; and for whom the special rate is not used as the highest previous rate; the highest previous rate may be based on the rate of basic pay for the step in the regular rate range that corresponds to the employee's existing step in the special rate range for the employee's current grade or pay level.

e. Reassignment. A change of an employee while serving continuously in the same agency (Army) from one position to another.

f. Reemployment. Employment, including reinstatement or another type of appointment, after a break in Federal service or at least one full workday.

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g. Transfer. A change of an employee, without a break in service of one full workday, from one branch of the Federal Government (Executive, Legislative, or Judicial) to another or from agency to another.

h. Representative Rate. A rate used to determine the nature of the job change (promotion, change to lower grade, or reassignment) where different kinds of pay schedules are involved, whether in the same or different wage area. For the General Schedule (GS), Step 4 is the representative rate and for Federal Wage Grade (WG), Step 2 is the representative rate.

i. Locality Pay. Adjustment of General Schedule salaries on the basis of a comparison with non-Federal rates of pay. The intent is to make Federal pay more responsive to local labor market conditions. Locality payments are not pay adjustments. The amount of the locality pay will depend on the geographic area of work. The locality adjustment is added to the employee basic pay equaling an adjusted basic pay. The locality rate of pay is considered basic pay for retirement and thrift savings contributions, life insurance, overtime and premium pay, severance pay, advances in pay, workers' compensation payments and lump-sum payments for accrued and accumulated annual leave. Locality rates of pay are not to be used for any other pay administration purposes, such as setting pay when an employee is promoted, determining an employee's highest previous rate (HPR), administering within-grade increases, determine supervisory differentials, and for grade and pay retention purposes.

**7. PAY SETTING GUIDES.**

a. General:

(1). The proper rate of pay will be determined in each individual case at the time the action is processed.

(2). Recommended and allowable exceptions (other than those allowed in this policy) will be fully documented and justified by a Staffing Specialist and submitted to the Director of Human Resources for approval.

(3). If there is an indication that an employee may be entitled to the benefit of a higher previous rate (HPR) but it cannot be immediately verified, the action will be processed at the first step of the grade, subject to upward adjustment. In such cases, a remark stating that the rate is subject to upward adjustment will be added to the Standard Form 50 to serve as the basis for the retroactive adjustment.

(4). The head of an agency may pay a supervisory differential (not to exceed 3% base/special pay) to a supervisor who is in a general schedule position paid under 5 U.S.C. 5332 and responsible for providing direct, technical supervision over the work of one or more civilian employees whose positions are not under the general schedule if the continuing pay of 1 or more of the subordinates would, in the absence of such a differential, be more than the continuing pay of the supervisor.

b. New Appointments: Except as provided in paragraph 7d. of this plan, a new appointment is made at the minimum rate of the grade; or, where a special rate has been established by the Office of Personnel Management, at the special minimum rate for the grade.

c. Temporary Appointments: Pay for a temporary appointment will be at the minimum rate of the appropriate grade except for an employee who is entitled to Highest Previous Rate (HPR) as defined in paragraph 6d. of this plan.

d. Reinstatements: Reemployment of former Federal employees (Reinstatement) may have the benefit of highest previous rate (HPR) as long as the requirements stated in paragraph 6d. above are met.

e. Promotions:

(1). **GS to GS**: Pay will be set at the lowest step of the new grade which exceeds the rate from which advanced by two full steps of the lower grade OR highest previous rate, whichever is greater. Exception: When a temporary employee is reinstated to a higher graded permanent position, the "highest previous rate" rule will apply for pay setting, not the 2 step promotion rule.

(2). **WG to WG or GS to WG**: Pay will be set at the lowest schedule rate of the grade to which promoted which exceeds the employee's existing schedule rate of pay by four percent of the representative rate of the grade from which promoted. If there is no rate of pay in the grade, pay will be set at the maximum scheduled rate of the grade to which promoted, or the employee's existing schedule rate of pay, if that rate is higher.

(3). **WG to GS**: Entitlement is to the basic pay at any rate of the grade which does not exceed the employee's highest previous rate. If the highest previous rate falls between two steps of the proposed grade, the higher of the two rates will be used.

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f. Change to Lower Grade:

(1). If an employee is changed to a lower grade, at his/her own request, to a position with known promotion potential to a grade equivalent to the grade currently held, a rate will be selected in the lower grade, which upon repromotion, will place the employee in the rate in the higher grade which they would have attained had they remained in that grade. These employees will be required to submit a statement requesting the change to lower grade which also states that they understand the pay setting procedure.

(2). If an employee is changed to a lower grade at his/her own request to a position with no planned promotion potential, pay will be set at the scheduled rate in the lower grade which is nearest to or equals the employee's existing scheduled rate. If the existing scheduled rate falls between two rates of the lower grade, pay is set at the higher rate.

(3). Change to lower grade of any employee in order to undergo a period of training under the Upward Mobility Program, or other employee development programs with formalized training based on the agency's need to develop a reservoir of skills and knowledge essential to the agency's mission to a position with higher promotion potential than grade currently held is not considered to be initiated by the employee. If the criteria for pay retention is met, the employee will be entitled to retained pay. When pay retention is not appropriate and the existing rate falls between two steps of the lower grade, the pay rate will be fixed at the higher step.

(4). Expiration or termination of temporary promotions. On expiration or termination of a temporary promotion when an employee is returned to the lower grade, the employee's rate of basic pay for the lower grade must be recomputed for the lower grade as if the employee had not been temporarily promoted unless the temporary promotion was held in excess of one year on a continuous basis, and upon management's request, the pay is set using HPR under paragraph 6d 1. above. As a condition upon temporary promotion, employees will be required to sign a statement assuring that they understand the promotion is temporary and their pay will be set upon change to lower grade, in accordance with this paragraph.

(5). An employee returned to a nonsupervisory or nonmanagerial position during the required probationary period for new supervisors/managers, is not entitled to grade or pay retention. An employee removed from a supervisory or managerial position based on deficiencies in the performance of supervisory or managerial duties, is entitled to be returned to a position in the agency of no lower grade and pay than the one the employee left to accept the supervisory/managerial position, unless the employee was demoted into a position in which probation is required and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned to a position at the same grade and pay as the position in which he/she was serving probation.

(6). When a change to lower grade is effected due to disciplinary reasons, or because of inefficiency or less than satisfactory performance, the employee's pay will be fixed in the lower grade at a step that will not exceed the employee's last earned rate.

g. Reassignment. Upon reassignment, pay will be fixed at a step which preserves, so far as possible, the existing rate of pay. If the existing rate falls between two steps, pay will be set at the higher step.

h. Transfer. Employees transferring into the activity will have their pay adjusted as far as possible to the existing rate of pay. If the adjusted pay falls between two steps, pay will be set at the higher step.

i. Special Rates: Employees of certain occupations are paid a higher salary rate than is paid to GS employees at their grade and step. These employees are receiving a "special salary rate".

(1). Promotion: Employees occupying special rates under the General Schedule, the special rate of pay is considered to be the "existing rate of basic pay" for promotion purposes. Therefore, if such an employee is promoted to a non-special rate GS position, the new rate of basic pay must be computed by adding two step increases (in the special rate range) to the special rate. If the resulting rate falls between two rates of the grade to which promoted, the employee is entitled to the higher rate.

(2). Reassignment, transfer or change to lower grade: Employees occupying a special rate position voluntarily reassigns, transfers or change to lower grade to a non-special rate position (other than upward mobility, career internship, or apprenticeship positions) the employee's special rate is terminated. Highest Previous Rate is the rate of basic pay to which the employee would have been entitled had the special rate not applied.

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(3). Involuntary Movement: Employee occupying a special rate position who are directed by management to take a lower-paying special rate position or a non-special rate position by reassignment or reduction in grade for reasons other than cause, the employee is entitled to pay retention under 5 CFR 536.104(a)(4) if their pay would otherwise be reduced.

Further, an employee occupying a special rate position who enters a non-special rate upward mobility, career intern, or apprenticeship position (and whose pay would otherwise be reduced) is entitled to pay retention under 5CFR 536.104(a)(6).

- j. Status as a GM Employee: Current GM employee's retain status as a GM employee when detailed to any position or when reassigned to another General Schedule position in which the employee continues to be a supervisor or management official. An employee permanently loses status as a GM employee if the employee is promoted (including a temporary promotion), transferred, reduced in grade, reassigned to a position in which the employee will no longer be a supervisor or management official, or has a break in service of more than 3 calendar days.

(1). Rate of basic pay on loss of status as a GM employee. On loss of status as a GM employee, an employee shall receive (except as provided in j(2) below) his/her existing rate of basic pay, plus any of the following adjustments that may be applicable, in the order specified:

- (a). The amount of any annual adjustment, to which the employee would otherwise be entitled on that date;

- (b). The amount of any step increase to which the employee otherwise would be entitled on that date;

- (c). The amount resulting from a promotion effective on that date;

- (d). In the case of an employee whose resulting rate of basic pay falls between two steps of a General Schedule grade, the amount of any increase that may be necessary to pay the employee the rate for the next higher step of that grade; and

- (e). In the case of an employee whose resulting rate of basic pay falls below the minimum rate of a General Schedule grade, the amount of any increase that may be necessary to pay the employee the minimum rate for that grade.



(2). Special exceptions. Paragraph j(1) above does not apply to any employee who loses status as a GM employee as a result of:

- (a). An action taken for disciplinary or performance related reasons;
- (b). The expiration or termination of a temporary promotion; or
- (c). A reduction in grade at the employee's request.

k. Retroactive Pay Adjustment. The specific rate of pay will be set in each individual case at the time the action is taken. If a decision is made to afford an employee the benefit of a former rate of pay, but it is not possible to obtain proof of the former rate prior to taking the action, the action may be processed at the minimum step rate of the grade, subject to upward adjustment. In such cases, a statement to that effect will be recorded on the Standard Form 50 (SF-50), Notification of Personnel Action, to serve as the basis for retroactive adjustment of the pay rate through issuance of a correction SF-50.

l. Retained Grade & Pay. An employee's existing rate of pay will be preserved to the maximum extent possible in all reduction-in-force, reemployment, and transfer of function assignments, IAW provisions of Title 5, USC of Federal Regulations, and Title VII of Public Law 95-454 (The Civil Service Reform Act of 1978). An employee who is placed in a lower grade as a result of reduction-in-force procedures, or whose position is reduced in grade as a result of reclassification of the position, is entitled to retain for a period of two years the grade held immediately before that placement or reduction. It also provides the authority for granting an employee indefinite pay retention.

(1). If through reduction-in-force procedures, the position accepted is even lower than the one offered in the RIF letter, grade retention may be granted provided management decides that the placement is in the Government's interest.

(2). When an employee in an organization undergoing realignment or reduction, but who would not be affected personally, requests a change to lower grade, grade retention may be granted, provided management decides that the change to lower grade would result in placement of the employee in a more suitable position, and a lessening or avoidance of RIF impact on other employees.

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(3). Pay retention options exist within the agency, to employees who meet the general eligibility requirements, but do not have an entitlement by law or OPM regulations, and whose rates of basic pay would otherwise be reduced as a result of a management action. Pay retention will be granted in the following situations:

(a). When an employee does not meet the time requirement (i.e. 52 weeks) for grade retention eligibility;

(b). The two year period of grade retention has ended and the employee still has not regained his/her former grade;

(c). An employee in a special rate position is placed at management's initiative in a non-special rate position or into a lower special rate position, or moved in a position in a lower (locality) wage area;

(d). As a result of the placement of the employee in a formal employee development program generally utilized Government wide: Upward Mobility, Apprenticeship, and Career Intern Programs;

(e). In other situations when employees rates of pay would otherwise be reduced as a result of statutory or non-statutory reductions in or elimination of scheduled rates, special schedules, or special rates, pay will retained IAW 5 CFR 536.104;

(f). When an employee is reduced in grade upon return from an overseas assignment IAW the terms of a pre-established agreement. This includes employees released from the period of service specified in their current transportation agreement due to a management initiated action and employees who have completed more than one year under their current agreement and are released from the period of service terms due to compelling personal reasons;

(g). When an employee declines a transfer of function offer outside the commuting areas or is identified with the transferring function but receives no offer at the gaining activity and is placed in a lower graded position at the losing activity;

(h). When an employee accepts a lower graded position offered due to nondisciplinary reasons of ill health under criteria similar to those used in determining placement options in lieu of disability retirement;

(i). When an employee not serving under a mobility agreement whose job is abolished declines an offer within the competitive area but outside the commuting area and is placed in a lower graded position in the commuting area.

8. **SIMULTANEOUS ACTIONS.** When a position or appointment change and entitlement to a higher rate of pay occur at the same time, the higher rate of pay is deemed an employee's existing rate of basic pay. If an employee is entitled to two pay benefits at the same time, the agency shall process the changes in the order which gives the employee the maximum benefit.

9. **ALL OTHER PAY ACTIONS.** Information on fixing rates of pay for miscellaneous actions not covered in this plan, is the responsibility of the Human Resources Director. Provisions of current collective bargaining agreements will apply, as appropriate. Guidance and advice, and decisions on pay fixing matters not covered herein may be obtained from the Human Resources Office, CESWD-HR, at 817-978-2208.

FOR THE COMMANDER:

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RUSSELL H. MINTON  
Executive Assistant

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